



1645  
#31  
Docket No.: PB340P2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Choi et al.

Application No.: 08/961,083

Group Art Unit: 1645

Filed: October 30, 1997

Examiner: Jana A. Hines

For: Streptococcus pneumoniae SP036  
Polynucleotides, Polypeptides, Antigens and  
Vaccines (As Amended)

TECH CENTER 1000/2900

2003

RECEIVED

**PROVISIONAL ELECTION WITH TRAVERSE UNDER 37 C.F.R. § 1.143**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Office Action mailed March 6, 2003 (Paper No. 30), please consider the following remarks and provisional election, *with traverse*.

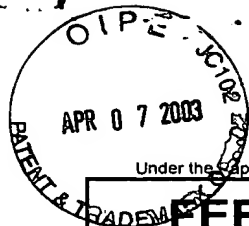
**Remarks**

Claims 17, 18, and 198-268 are allowed.

Despite the fact that substantive examination in this case was made final with the mailing of a notice of allowance on February 1, 2000, the Examiner has issued a restriction requirement more than three years later, separating the allowed claims into four different groups. Group I is defined as claims 17 and 265-268, drawn to methods of attenuating an infection. Group II is defined as claim 18, drawn to a method of detection. Group III is defined as claims 198-233 and 236, drawn to isolated polynucleotides and vectors. Group IV is defined as claims 234-235 and 237-264, drawn to isolated polypeptides and methods of using them. *See*, Paper No. 30, page 2.

Applicants respectfully traverse the present restriction requirement.

The time for a restriction requirement is specified in 37 C.F.R. § 1.142(a), which states: "Such requirement will normally be made before any action on the merits; however, it may be made at any time before final action." Emphasis added. Applicants submit that the



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>FEE TRANSMITTAL</b> <b>for FY 2003</b> <small>Patent fees are subject to annual revision.</small>		<b>Complete if Known</b>																																																																																																																																																																																															
<div style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27</div> <div style="border: 1px solid black; padding: 5px;"><b>TOTAL AMOUNT OF PAYMENT</b> (\$ ) 0.00</div>		<b>Application Number</b>	08/961,083																																																																																																																																																																																														
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		<b>First Named Inventor</b>	Gil H. Choi																																																																																																																																																																																														
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<div style="display: flex; justify-content: space-between;"><div style="width: 45%;"><b>METHOD OF PAYMENT</b> (check all that apply)<div style="display: flex; justify-content: space-between; margin-top: 5px;"><div><input type="checkbox"/> Check</div><div><input type="checkbox"/> Credit Card</div><div><input type="checkbox"/> Money Order</div><div><input type="checkbox"/> Other</div><div><input type="checkbox"/> None</div></div><div style="margin-top: 5px;"><input checked="" type="checkbox"/> Deposit Account</div><div style="margin-top: 5px;">Deposit Account Number: 08-3425</div><div style="margin-top: 5px;">Deposit Account Name: Human Genome Sciences, Inc.</div><div style="margin-top: 5px;"><small>The Commissioner is hereby authorized to: (check all that apply)</small></div><div style="display: flex; justify-content: space-between; margin-top: 5px;"><div><input checked="" type="checkbox"/> Charge fee(s) indicated below</div><div><input checked="" type="checkbox"/> Credit any overpayments</div></div><div style="margin-top: 5px;"><input checked="" type="checkbox"/> Charge any additional fee(s) during the pendency of this application</div><div style="margin-top: 5px;"><input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.</div></div></div> <div style="width: 50%;"><b>FEE CALCULATION</b> (continued) <b>3. ADDITIONAL FEES</b><table border="1" style="width: 100%; border-collapse: collapse;"><thead><tr><th colspan="2">Large Entity</th><th colspan="2">Small Entity</th><th rowspan="2">Fee Description</th><th rowspan="2">Fee Paid</th></tr><tr><th>Fee Code</th><th>Fee (\$)</th><th>Fee Code</th><th>Fee (\$)</th></tr></thead><tbody><tr><td>1051</td><td>130</td><td>2051</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr><tr><td>1052</td><td>50</td><td>2052</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr><tr><td>1053</td><td>130</td><td>1053</td><td>130</td><td>Non-English specification</td><td></td></tr><tr><td>1812</td><td>2,520</td><td>1812</td><td>2,520</td><td>For filing a request for ex parte reexamination</td><td></td></tr><tr><td>1804</td><td>920*</td><td>1804</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr><tr><td>1805</td><td>1,840*</td><td>1805</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr><tr><td>1251</td><td>110</td><td>2251</td><td>55</td><td>Extension for reply within first month</td><td></td></tr><tr><td>1252</td><td>410</td><td>2252</td><td>205</td><td>Extension for reply within second month</td><td></td></tr><tr><td>1253</td><td>930</td><td>2253</td><td>465</td><td>Extension for reply within third month</td><td></td></tr><tr><td>1254</td><td>1,450</td><td>2254</td><td>725</td><td>Extension for reply within fourth month</td><td></td></tr><tr><td>1255</td><td>1,970</td><td>2255</td><td>985</td><td>Extension for reply within fifth month</td><td></td></tr><tr><td>1401</td><td>320</td><td>2401</td><td>160</td><td>Notice of Appeal</td><td></td></tr><tr><td>1402</td><td>320</td><td>2402</td><td>160</td><td>Filing a brief in support of an appeal</td><td></td></tr><tr><td>1403</td><td>280</td><td>2403</td><td>140</td><td>Request for oral hearing</td><td></td></tr><tr><td>1451</td><td>1,510</td><td>1451</td><td>1,510</td><td>Petition to institute a public use proceeding</td><td></td></tr><tr><td>1452</td><td>110</td><td>2452</td><td>55</td><td>Petition to revive - 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